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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005				
			EXAMINER FORD, GRANT M	
			ART UNIT 2141	PAPER NUMBER

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/098,620	ROSENBERG ET AL.	
	Examiner	Art Unit	
	Grant Ford	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30, 32 and 34 is/are rejected.
- 7) ☒ Claim(s) 31 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2-23-06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30,32,34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leeke et al. (6,587,127), hereinafter referred to as Leeke in view of Dwek (6,248,946).

- a. As per claims 1 and 18, Leeke discloses:

storing one or more audio channel profiles (Col 6 lines 11-15);

associating each of the one or more audio channel profiles with a personalized audio channel, wherein the audio channel profile associated with a personalized audio channel is used to select the sound recordings that are played for the personalized audio channel (Col 48 lines 55-59, 64-66);

receiving a broadcast sound recording over a conventional broadcast audio channel (Col 5 lines 1-4);

playing the received broadcast sound recording so that a user can listen to the broadcast sound recording (Col 4 lines 52-56);

receiving an indication from the user that the user likes the received broadcast sound recording (Col 15 lines 13-15). However, Leeke does not explicitly teach modifying at least one of the one or more audio channel profiles.

Dwek teaches modifying at least one of the one or more audio channel profiles in response to receiving user feedback (Col 2 lines 15-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate modifying audio channel profiles in response to receiving feedback with interactive radio systems for the purpose of creating a customized radio station (Col 2 lines 15-17).

b. As per claims 2 and 19, Leeke and Dwek disclose the invention substantially as claimed above. However, Leeke fails to explicitly teach modifying the audio channel profiles.

Dwek teaches wherein said at least one of the one or more profiles includes a set of one or more sound recording identifiers, and the step of modifying said at least one of the one or more audio channel profiles comprises the step of adding a sound recording identifier that identifies the received broadcast sound recording to said set of sound recording identifiers included in the at least one profile (Col 2 lines 15-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate identifying the target of user feedback with audio channel profiles for the purpose of selecting which artists and categories of interest to play on a customized radio station (Col 2 lines 15-17).

c. As per claim 3 and 20, Leeke and Dwek disclose the invention substantially as claimed above. However, Leeke fails to explicitly teach modifying audio channel profiles.

Dwek teaches wherein said at least one of the one or more profiles includes a set of one or more artist identifiers, and the step of modifying at least one of the one or more audio channel profiles comprises the step of adding an artist identifier that identifies the artist that recorded the received broadcast sound recording to said set of artist identifiers included in the at least one profile (Col 2 lines 15-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate identifying the target of user feedback with audio channel profiles for the purpose of selecting which artists and categories of interest to play on a customized radio station (Col 2 lines 15-17).

d. As per claims 4 and 21, Leeke additionally discloses the step of enabling the user to specify the degree to which the user likes the sound recording (Col 35 lines 48-50).

e. As per claim 5 and 22, Leeke and Dwek disclose the invention substantially as claimed above. However, Leeke fails to explicitly teach modifying audio profiles.

Dwek teaches the step of enabling the user to select at least one of the audio channel profiles in response to receiving the indication, wherein the step of modifying at least one of the one or more profiles comprises the step of modifying the selected profile or profiles (Col 2 lines 15-39). The examiner asserts that the RADIO SONICNET system is capable of receiving the indication from the user prior to modifying the audio channel profile and obtaining the playlist music via the internet connection. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate identifying the target of user feedback with audio channel profiles for the purpose of selecting which artists and categories of interest to play on a customized radio station (Col 2 lines 15-17).

f. As per claim 6 and 23, Leeke additionally discloses the step of receiving information about the received broadcast sound recording (Table III, Col 44 lines 48-65).

g. As per claims 7 and 24, Leeke and Dwek disclose the invention substantially as claimed above. However, Leeke fails to explicitly teach modifying audio channel profiles.

Dwek teaches the step of selecting one or more of the audio channel profiles based on the received information concerning the received

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broadcast sound recording and wherein the step of modifying at least one of the one or more audio channel profiles comprises the step of modifying at least one of the selected profiles (Col 2 lines 15-39). The examiner notes that system of RADIO SONICNET allows the user to actively select artist and musical category information for their profile. As such, the server which sends the music must inherently select one or more audio channel profiles which match the broadcast sound recording to determine whether to send said broadcast sound recording. As such, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate selecting one or more of the audio channel profiles based on the received information concerning the received broadcast recording with customized radio stations for the purpose of selectively sending audio to those users who like the artist and maintaining the profiles of said users. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate identifying the target of user feedback with audio channel profiles for the purpose of selecting which artists and categories of interest to play on a customized radio station (Col 2 lines 15-17).

h. As per claims 8 and 25, Leeke discloses wherein the information concerning the sound recording indicates a genre to which the sound recording belongs (Col 19 lines 66-67, Col 20 lines 1-11).

i. As per claims 9 and 26, Leeke discloses the step of storing the broadcast sound recording in a cache as the broadcast sound recording is being received (Col 48 lines 38-47, Col 49 lines 12-21).

j. As per claim 10, Leeke discloses the method of claim 9 further comprising the step of providing a means for enabling the user to provide an indication that the user would like to obtain a copy of the broadcast sound recording (Col 14 lines 40-42).

k. As per claim 11, Leeke discloses the method of claim 10 further comprising the steps of: determining whether the user may obtain a copy of the broadcast sound recording in response to the user providing an indication that the user would like to obtain a copy of the broadcast sound recording (Col 24 lines 15-16); and copying the sound recording from the cache to a non-volatile storage medium if it is determined that the user may obtain a copy (Col 23 lines 47-48, 61-66). The examiner notes lines 63-66 state "The playlist smart card can be used to collect music, library content, events, or radio programming using personalized icons, event schedules, and playlists. Access to some content may be secured using the playlist smart card via a purchase." With reference to above rejected claim 9, the broadcast sound recording is stored in a cache as being received. The smart card is capable of storing said broadcast sound recording. As such, the system of Leeke is capable of "copying the sound recording from the cache to a non-volatile storage medium ..."

I. As per claims 12 and 27, Leeke discloses providing personalized audio channels, wherein each personalized audio channel has a profile associated therewith and each profile contains information that is used in selecting the sound recordings that are played for the personalized audio channel associated with the profile, comprising the steps of:

receiving from the user an indication that the user desires to listen to a selected one of the two or more personalized audio channels (Col 6 lines 11-19, Col 35 lines 6-15) The examiner notes that each user has a personalized audio channel, and in the system of Leeke, the user selects their own personalized audio channel via end user data;

playing a set of sound recordings, wherein the set of sound recordings matches the profile associated with the selected personalized audio channel (Col 48 lines 64-66);

receiving a broadcast sound recording over a conventional broadcast audio channel (Col 35 lines 16-19);

playing the sound recording so that a user can listen to the broadcast sound recording (Col 35 line 48);

enabling the user to indicate that the user likes or does not like the broadcast sound recording (Col 35 lines 48-50). However, Leeke fails to explicitly teach modifying audio profiles.

Dwek teaches modifying at least one of the two or more audio profiles in response to receiving user feedback (Col 2 lines 15-39). It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to incorporate modifying audio channel profiles in response to receiving feedback with interactive radio systems for the purpose of creating a customized radio station (Col 2 lines 15-17).

m. As per claims 13 and 28, Leeke discloses the step of storing the broadcast sound recording in a cache as the broadcast sound recording is being received (Col 48 lines 38-47, Col 49 lines 12-21).

n. As per claim 14, Leeke discloses the step of providing means for enabling the user to provide an indication that the user would like to obtain a copy of the broadcast sound recording (Col 14 lines 40-42).

o. As per claim 15, Leeke discloses the method of claim 14 further comprising the steps of: determining whether the user may obtain a copy of the broadcast sound recording in response to the user providing an indication that the user would like to obtain a copy of the broadcast sound recording (Col 24 lines 15-16); and copying the sound recording from the cache to a non-volatile storage medium if it is determined that the user may obtain a copy (Col 23 lines 47-48, 61-66). The examiner notes lines 63-66 state "The playlist smart card can be used to collect music, library content, events, or radio programming using personalized icons, event schedules, and playlists. Access to some content may be secured using the playlist smart card via a purchase." With reference to above rejected claim 9, the broadcast sound recording is stored in a cache as being received. The smart card is capable of storing said broadcast sound recording.

As such, the system of Leeke is capable of "copying the sound recording from the cache to a non-volatile storage medium ..."

p. As per claims 16 and 29, Leeke discloses providing one or more personalized audio channels, wherein each personalized audio channel has a profile associated therewith and each profile contains information that is used in selecting the sound recordings that are played by the personalized audio channel associated with the profile, comprising the steps of:

using the information in one of the profiles to create a playlist, wherein the playlist specifies a set of sound recordings (Col 7 lines 63-67, Col 8 lines 1-17);

associating the playlist with the personalized audio channel that is associated with the profile used to create the playlist (Col 7 lines 63-67, Col 8 lines 1-17, Col 15 lines 57-58, Col 48 lines 64-66);

receiving from the user an indication that the user desires to listen to the personalized audio channel (Col 9 lines 40-53);

retrieving the selected sound recording (Col 35 lines 16-19);

playing the selected sound recording so that the user can listen to the sound recording (Col 35 line 48);

receiving a broadcast sound recording so that a user can listen to the broadcast sound recording (Col 35 lines 16-19);

enabling the user to indicate that the user likes or does not like the broadcast sound recording (Col 35 lines 48-50).

However, Leeke fails to explicitly teach selecting, in response to the received indication, a sound recording specified in the playlist or modifying at least one of the one or more profiles in response to the user indicating that the user likes or does not like the broadcast sound recording.

Dwek teaches selecting, in response to the received indication, a sound recording specified in the playlist (Col 2 lines 15-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate selecting a sound recording specified in the playlist with personalized audio channels for the purpose of allowing a user to specify artist and musical category preferences which determine what music they hear (Col 2 lines 15-39). Dwek teaches modifying at least one of the one or more audio channel profiles in response to receiving user feedback (Col 2 lines 15-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate modifying audio channel profiles in response to receiving feedback with interactive radio systems for the purpose of creating a customized radio station (Col 2 lines 15-17).

q. As per claims 17 and 30, Leeke additionally discloses the method of claim 16 further comprising the step of storing the broadcast sound recording in a cache as the broadcast sound recording is being received (Col 48 lines 38-47, Col 49 lines 12-21).

r. As per claim 32, Leeke additionally discloses enabling a user to create a new audio channel profile without requiring the user to input any user identifier (Col 6 lines 29-36).

s. As per claim 34, Leeke and Dwek disclose the invention substantially as claimed above. Additionally, Leeke discloses wherein the audio channel profile associated with a personalized audio channel is used to select all of the sound recordings that are played for the personalized audio channel (Col 7 lines 63-67, Col 8 lines 1-17, Col 15 lines 57-58, Col 48 lines 64-66).

Allowable Subject Matter


3. Claims 31 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Grant Ford whose telephone number is (571)272-8630. The examiner can normally be reached on 8-5:30 Mon-Thurs alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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